

APR 17 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DAVID ROCHA-RAMON,

Defendant-Appellant.

No. 05-30365

D.C. No. CR-04-00166-FVS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, Chief Judge, Presiding

Submitted April 13, 2006**

Before: SILVERMAN, McKEOWN and PAEZ, Circuit Judges.

David Rocha-Ramon appeals his 37-month sentence imposed following his guilty plea to being found in the United States after illegal re-entry, in violation of

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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8 U.S.C. § 1326. We have jurisdiction pursuant to 18 U.S.C. § 3742, and we affirm.

Rocha-Ramon contends that the district court violated his Sixth Amendment rights by imposing a sentence in excess of the two-year maximum set forth in 8 U.S.C. § 1326(a) based on a prior conviction that was neither proved to a jury nor admitted during the plea colloquy. This contention is foreclosed. *See United States v. Weiland*, 420 F.3d 1062, 1079 & n.16 (9th Cir. 2005), *petition for cert. filed*, No. 05-8847 (filed Jan. 23, 2006); *United States v. Moreno-Hernandez*, 419 F.3d 906, 914 & n.8 (9th Cir.), *cert. denied*, 126 S. Ct. 636 (2005); *United States v. Von Brown*, 417 F.3d 1077, 1078-79 (9th Cir.) (per curiam).

AFFIRMED.